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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,487	11/26/2003	Scott A. McCuskey	SAMC 63916	9528
7590	07/31/2006		EXAMINER	
Tara L. Pfaeffle Pietragallo, Bosick & Gordon One Oxford Centre, 38th Floor 301 Grant Street Pittsburgh, PA 15219			BAXTER, GWENDOLYN WRENN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/723,487	MCCUSKEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gwendolyn Baxter	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 May 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4,8-18,35,36,38-41,44 and 45 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,11-18,35,36,38, 39,44 and 45 is/are rejected.  
 7) Claim(s) 4,8-10,40,41 and 44 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

This is the third Office of application serial number 10/723,487, Weapon Caddy, filed November 26, 2003.

***Withdrawal of Finality***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,723,808 to Devall. The present invention reads on Devall as follows: Devall teaches a caddy comprising a mounting bracket (8), a base member (43, 48), and a cradle member (49, 47, 48). The mounting bracket is structured and arranged for mounting on a support structure (3, 71). The base member is slidably mounted on the mounting bracket. A coupling (44-46) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member at a single point of connection between the mounting bracket and base member. The base member slides and rotates in a substantially

horizontal plane. The cradle member is mounted on the base member and structured and arranged for supporting the weapon (72). The cradle member is generally U-shaped. The support structure comprises a tree stand (71).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Devall in view of U.S. Patent No. 3,225,656 to Flaherty. Devall teaches the limitations of the base claim, excluding the cradle member having an elastic liner.

Flaherty teaches a rifle rest for supporting a weapon. The rest comprises a telescoping cradle member (30), wherein the cradle member includes an elastic liner (41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Devall to have incorporated the elastic liner as taught by Flaherty for the purpose of absorbing shock which frictionally engages the sides of the weapon which is placed in the cradle.

Claims 13, 14, 15 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devall in view of U.S. Patent No. 5,078,279 to Hancock. Devall teaches the limitations of the base claim, excluding a detachable elastic strap.

Hancock teaches a gun rest for supporting a weapon. The gun rest comprises a cradle member (25, 26), wherein the cradle member includes an elastic detachable strap (31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Devall to have incorporated an additional strap as taught by Hancock for the purpose of securing the weapon in the cradle member and prevent any vibrations or movement of the weapon.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devall in view of U.S. Patent No. 4,017,997 to Peterson. Devall teaches the limitations of the base claim, excluding a strap includes holes.

Peterson teaches a gun support. The gun support comprises an elastic strap (E,38) including holes (41) for pegs (28, 30), wherein the cradle member (B), wherein the strap is detachable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Devall to have incorporated an additional strap having holes therein as taught by Peterson for the purpose of securing the weapon in the cradle member and prevent any vibrations or movement of the weapon.

Claims 17 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devall in view of U.S. Patent No. 5,685,103 to Wiggins. Devall teaches the limitations of the base claim, excluding a mechanical fastener.

Wiggins teaches a gun support or caddy. The gun support or caddy comprises the mounting bracket (30) having both a strap (40) and a mechanical fastener (46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mounting bracket as taught by Devall to have incorporated the mechanical fastener as taught by Wiggins for the purpose of preventing the bracket from pivoting from the tree.

Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devall. Devall teaches the limitations of this claim, excluding an additional caddy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made an additional caddy, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Devall in view of Wiggins, as applied to claims 17 and 38, and in further view of U.S. Patent No. 3,494,582 to Nemeth. Devall in view of Wiggins teaches the limitations of the base claim, excluding the mounting fastener being a bolt and nut.

Nemeth teaches a mechanical fastener received through the support structure (16) having a bolt (17) and nut (not numbered) for retaining the mounting bracket to the support structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mechanical fastener as taught by

Devall in view of Wiggins to have incorporated the fastener and bolt as taught by Nemeth as mere substitution of functionally equivalent parts for the purpose of securing the bracket to the supporting structure.

***Allowable Subject Matter***

Claims 4, 8-10, 40, 41 and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 11-18, 35, 36, 38, 39, and 45 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Leslie A Braun can be reached on 571-272-6826. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

July 19, 2006